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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,591	10/24/2003	Gary Peterson	810-001	7301
23996 7590 09/26/2008 PATENT LAW OFFICES OF RICK MARTIN, PC PO BOX 1839 LONGMONT, CO 80502				
EXAMINER				
LOVELL, LEAH S				
ART UNIT		PAPER NUMBER		
2885				
MAIL DATE		DELIVERY MODE		
09/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,591

Applicant(s)

PETERSON, GARY

Examiner

LEAH S. LOVELL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9 and 11-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 7-9 and 11-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7 July 2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 6,016,101) in further view of Peterson et al. (US 6,186,635).

In regard to claim 11, Brown discloses a light adapted to be secured to a bike, wherein said light comprises:

a block [20],

said block [20] having a length, a width, and a thickness [length and width can be seen in figure 2; thickness is seen in figure 3]; two side portions [see figure A provided below]; and a groove [column 3, lines 59-61] having a floor [see figure A provided below] between said side portions [see figure A provided below], and

a means [32] for producing light [figure 4] in said block [20], and

a means [18, the second half of the housing which mates with the first to secure the device] for securing said block to a bike comprising clipping a spoke in the groove [column 3, lines 55-59], and

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wherein said block has two sources [figures 2-4; 32 and 12] for producing light, and

wherein one [32] of said two sources for producing light is an LED powered by a battery in said block, and another of said sources [12] for producing light is a reflective material that said block is made from [column 3, lines 61-62].

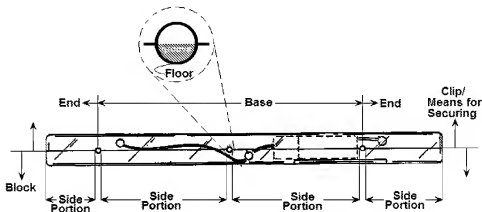


FIGURE A: Figure 3 of Brown that has been modified to indicate different portions of the light. A magnified view of the groove has been added to indicate the groove and its floor.

However, Brown does not disclose a phosphorescent material as a second source for producing light.

Peterson discloses the use of phosphorescent material as a base for a bike light [abstract]. It would have been obvious to one of ordinary skill in the art at the time of the invention to try the phosphorescent material of Peterson in an attempt to improve function and visibility of the reflector of Brown, as a person with ordinary skill has good reason to pursue the known options within his or her technical grasp. In turn, one would have been motivated to do so because it is known in the art that phosphorescent materials function like traditional reflectors while providing the added benefit of continuing to glow after light which is incident on the surface has ceased. *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007).

In regard to claim 7, Brown discloses said means [26] on each of said two ends, which engage said block, engage said floor of said block [the hardware 26 which engages the block also engages the floor of the groove of the block since it presses the spoke against the floor of the groove].

In regard to claim 8, Brown discloses the light in combination with a wheel [16], and said wheel [16] has a plurality of spokes [14], and said block [20] is positioned on one side of said spokes [figure 3;

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figure A above], and said clip [18] is positioned on an opposite side of said spokes [figure 3; figure A above].

Regarding claim 9, Brown discloses at least two of said plurality of spokes cross, and one of said two ends of said clip is positioned on one side of where said two of said plurality of spokes cross, and another of said two ends is positioned on another side of where said two of said plurality of spokes cross. It is inherent in the art that a bicycle wheel has a plurality of spokes which extend from an outer rim of the wheel to an inner hub of the wheel wherein the spokes appear to be in a single-file line along the outer rim of the wheel while the spokes appear to cross along the inner hub of the wheel when viewed from the side. It is also inherent that the light device of Brown will have one end on one side of where a plurality of spokes cross and a second end on of another side due to its length and position.

Regarding claim 12, Brown discloses a light adapted to be secured to a bike, wherein said light comprises:

a block [20],

said block [20] having a length, a width, and a thickness [length and width can be seen in figure 2; thickness is seen in figure 3]; two side portions [see figure A provided below]; and a groove [column 3, lines 59-61] having a floor [see figure A provided below] between said side portions [see figure A provided below], and

a means [32] for producing light [figure 4] in said block [20], and

a means [18, the second half of the housing which mates with the first to secure the device] for securing said block to a bike comprising clipping a spoke in the groove [column 3, lines 55-59], and

wherein said block has two sources [figures 2-4; 32 and 12] for producing light,

and wherein a second source of light is a battery [30; column 4, line 6] in the block which powers a light emitting diode (LED) [32] in the block [figures 2 and 3].

However, Brown does not disclose the composition of the reflective material which the housing is made of. Peterson et al. discloses a first source [3] of light is a material of the block comprises a compound comprising a ration of six parts of phosphorescent brightener and four parts of fluorescent coloring and

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four drops of mineral oil to 100 parts of polyvinylchloride [column 3, lines 26-33]. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the reflector of Brown out of the materials of Peterson, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. One would be motivated to do so because the composition disclosed by Peterson is well-known in the art to produce highly visible reflective surfaces which are desired for an effective indication light on a bike.

In regard to claim 13, Brown discloses a light adapted to be secured to a bike, wherein said light comprises:

a block [20],

said block [20] having a length, a width, and a thickness [length and width can be seen in figure 2; thickness is seen in figure 3]; two side portions [see figure A provided below]; and a groove [column 3, lines 59-61] having a floor [see figure A provided below] between said side portions [see figure A provided below], and

a means [32] for producing light [figure 4] in said block [20] comprising a battery in the block which powers an LED mounted in the width of said block,

said LED covered by a lens [the inherent structure of an LED is a LED chip covered by a resin which doubles as a lens],

said LED and lens combining to form a light source,

said light source [32] at least partially protruding from said block [figure 3; shows the light source 32 protruding from the block 20 into the means for securing said block 18],

a means [18, 26] for securing said block to a bike comprising securing a spoke in the groove [column 3, lines 55-59], and

wherein said means [18, 26] for securing said block to a bike comprises a clip [18], said clip having two ends and a base [indicated in figure A above], each of said two ends having means [26] for engaging said block with the spoke in the groove [figures 2 and 3]; and

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wherein said block [20] comprises a light absorbing [38] and light emitting compound [32].

However, Brown does not disclose a phosphorescent material as a second source for producing light. Peterson discloses the use of phosphorescent material as a base for a bike light [abstract]. It would have been obvious to one of ordinary skill in the art at the time of the invention to try the phosphorescent material of Peterson in an attempt to improve function and visibility of the reflector of Brown, as a person with ordinary skill has good reason to pursue the known options within his or her technical grasp. In turn, one would have been motivated to do so because it is known in the art that phosphorescent materials function like traditional reflectors while providing the added benefit of continuing to glow after light which is incident on the surface has ceased. *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007).

Regarding claim 14, Brown discloses the light [32] protrudes from said block [20] in a direction such that a longitudinal axis of the light is substantially parallel to a plane of a wheel of the bike [whether the LED protrudes in a direction that the lens (resin coating) of the LED points out from the wheel or in a direction toward the front or rear of the bike the LED will have an axis parallel to an axis of the wheel—either the rotational axis about the center of the wheel or the axis of the wheel in line with the length of the bike].

Response to Arguments

4. Applicant's arguments with respect to claims 7-9 and 11-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEAH S. LOVELL whose telephone number is (571)272-2719. The examiner can normally be reached on Monday through Friday 8 a.m. until 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LSL/
20 September 2008

/Jong-Suk (James) Lee/
Supervisory Patent Examiner, Art Unit 2885